HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.19864 of 2006

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Between:

Dr.C.Dayakar Reddy

……Petitioner

And

The Consumer Disputes Redressal Forum – I,
Hyderabad District, Chandravihar, M J Market Road,
Hyderabad and another

……Respondents

:: ORDER ::

Counsel for the Petitioner : Shri S.Srinivas

October 12, 2006

Per G.S. SINGHVI, CJ

This is a petition for quashing order dated 08-05-2006 passed by Consumer Disputes Redressal Forum – I, Hyderabad (for short, 'the District Forum') in C.D No.570 of 2005.

Shri S.Srinivas, learned counsel for the petitioner fairly conceded that the order passed by the District Forum could be challenged by filing appeal under Section 15 of the Consumer Protection Act, 1986 (for short, 'the Act'), but argued that his client may not be relegated to the remedy of appeal because –

i) in F.A.No.658 of 2006 filed by the petitioner against an order similar to the one impugned in the writ petition, Andhra Pradesh State Consumer Disputes Redressal Commission (for short, 'the State Commission') has already expressed adverse opinion,

ii) Writ Petition No.16755 of 2006 filed by the petitioner against a similar order passed by the District Forum has already been admitted by this Court, and

iii) the order impugned in the writ petition is vitiated due to violation of the rules of natural justice.

We have given serious thought to the arguments of the learned counsel, but have not felt impressed. Rather, we are convinced that the writ petition is liable to be dismissed because the petitioner has got an effective alternative remedy by way of appeal under Section 15 of the Act.

A perusal of the record of Writ Petition No.16755 of 2006 shows that the same was admitted notwithstanding the availability of statutory alternative remedy of appeal to the petitioner because he has challenged the constitutionality of Sections 15 and 19 of the Act. In the

present case, the petitioner has not challenged the constitutionality of any of the provisions contained in the Act. Therefore, admission of one writ petition filed by the petitioner questioning the legality of the order passed by the District Forum cannot entitle him to seek admission of another petition filed against the order of the District Forum, as of right.

The petitioner's plea that the alternative remedy should not be treated as effective because the State Commission has already expressed opinion in a similar case does not merit acceptance. In our opinion, the rule of alternative remedy cannot be avoided only on the ground that in one case, the appellate adjudicatory forum has passed order adverse to the petitioner. It is open to the petitioner to convince the State Commission to take a different view and we cannot entertain the writ petition by presuming that the State Commission will not consider the issue raised by the petitioner in an objective manner.

The plea of violation of the rules of natural justice raised by the petitioner is meritless. A reading of the order passed by the District Forum shows that the complaint filed by respondent No.2 was decided after issuing notice to the opposite parties including CDR Good Health Club, of which the petitioner is the Chairman-cum-Managing Director. It is, therefore, not open to the petitioner to complain of the violation of the rule of audi alteram partem.

With the above observations, the writ petition is dismissed leaving the petitioner free to avail the remedy of appeal. It will also be open to the petitioner to apply for condonation of delay in filing the appeal.

As a sequel to dismissal of the writ petition, WPMP No.25061 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

12-10-2006

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